

CALIFORNIA TAXPAYERS' BILL OF RIGHTS

A Comprehensive Guide

California Franchise Tax Board

MISSION OF THE FRANCHISE TAX BOARD

The purpose of the Franchise Tax Board is to collect the proper amount of tax revenue, and operate other programs entrusted to us, at the least cost; serve the public by continually improving the quality of our products and services, and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency and fairness.

STATEMENT OF PRINCIPLES OF TAX ADMINISTRATION

The primary function of the Franchise Tax Board is to administer the Revenue and Taxation Code. Tax policy for raising revenue is determined by elected officials.

With this in mind, it is the duty of the Franchise Tax Board to carry out that policy by correctly applying the laws enacted by the Legislature, to determine the reasonable meaning of various Code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Franchise Tax Board, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he or she is "protecting the revenue." The revenue is properly protected only when the true meaning of the statute is ascertained and applied.

The Franchise Tax Board also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised when they have merit, never arbitrarily or for trading purposes. At the same time, employees should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Franchise Tax Board position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

INTRODUCTION

In 1988, the California Taxpayers' Bill of Rights (Stats. 88, Ch. 1573) was signed into law. This law codified many existing Franchise Tax Board (FTB) procedures, established a Taxpayer Advocate and clarified your rights as a California taxpayer and the obligations of the FTB.

On July 30, 1996 President Clinton signed Taxpayer Bill of Rights 2 (P.L. 104-168). A few months later, California's Taxpayers' Rights: Conformity legislation (Stats. 97, Ch. 600) was passed by the Legislature and signed by Governor Wilson. Like the federal law, California's new law contains numerous provisions that are intended to provide increased protection of taxpayers' rights.

The purpose of this guide is to provide a general overview of the provisions contained in the California Taxpayers' Bill of Rights and the California Taxpayer Bill of Rights 2. Each topic in this guide references a particular section of the Revenue and Taxation Code. We have included the section number for your information. In addition, the back of this guide contains a reference to the comparable sections of the Internal Revenue Code and the federal legislation.

We hope the information in this guide will give you a better understanding of this important legislation.

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PART I

THE TAXPAYER ADVOCATE

¶1 Revenue and Taxation Code Section 21004

The Taxpayer Advocate reports directly to the Executive Officer of the Franchise Tax Board (FTB) and is responsible for coordinating the resolution of taxpayer complaints and problems.

Taxpayers who have been unable to resolve their problems with FTB through normal channels may contact the Taxpayer Advocate Bureau. If a tax problem is causing or will cause the taxpayer an irreparable loss, the Advocate can arrange for a review of the case and, if appropriate, postpone enforcement action while the case is under review.

Taxpayers may contact the Advocate by writing to:

Taxpayer Advocate Bureau
P. O. Box 1468
Sacramento, CA 95812-1468
FAX: (916) 845-6614

PART II

TAXPAYER EDUCATION

| | Revenue & Taxation Code |
|--------------------------------------------------------------------|-------------------------|
| ¶2 Public Education Program | 21005 |
| ¶3 Annual Report to the Legislature | 21006 (a) |
| ¶4 Annual Hearing Conducted by the Franchise Tax Board. | 21006 (b) (2) |
| ¶5 Explanation of Taxpayers' Rights | 21007 |

¶2 Public Education Program R&TC Section 21005

The Franchise Tax Board (FTB) must develop and implement a program to inform taxpayers of the most common mistakes they make when preparing their tax returns and how these errors can be avoided.

FTB's ongoing public education program has been enhanced in response to the Taxpayers' Bill of Rights. Taxpayers obtain help in avoiding the most common errors through information contained in the tax booklets, statewide press releases and educational programs such as Speakers' Bureau, Volunteer Income Tax Assistance (VITA), and small business conferences.

FTB also produces *Tax News*, a bi-monthly newsletter that gives tax preparers information about errors made on returns, new laws, FTB policies and procedures and other information of interest to tax professionals. FTB charges \$12 for an annual subscription to *Tax News*. The newsletter is available without charge on the Internet (see web site address below).

Tax practitioners can also call FTB's Tax Practitioner Hotline (916) 845-7057. FTB staff answering the hotline work with the tax practitioner to resolve individual FTB related client problems and also answer tax law questions.

In addition, on FTB's web site (<http://www.ftb.ca.gov>), taxpayers and tax preparers can access or download press releases, frequently asked questions, tax forms, publications and program specific information.

¶3 *Annual Report to the Legislature*

R&TC Section 21006 (a)

By October 1 of each year, the Franchise Tax Board (FTB) is required to submit to the Legislature an annual report that identifies recurrent areas where taxpayers are not complying with the tax law. Part I of the report shows the volume of assessments for both personal income taxes and bank and corporation taxes taken from sample data from the audit process. Part II shows taxpayer's errors that FTB detected during the initial processing of the previous year's tax returns. The report also includes FTB's strategies to improve taxpayer compliance through changes in the law, improved training of FTB staff, enhanced communications with taxpayers and tax practitioners and increased enforcement capabilities.

¶4 *Annual Hearing Conducted by the Franchise Tax Board*

R&TC Section 21006(b)(2)

The Franchise Tax Board (FTB) must conduct an annual hearing where individual taxpayers and industry representatives may present their proposals to clarify the California Revenue and Taxation Code. FTB typically holds the hearing late in the fall. Proposals presented by the public generally fall into two categories — (1) changes to the Revenue and Taxation Code and (2) changes to administrative procedures.

FTB staff prepare analyses of the proposed changes to the tax code and present the analyses to the three member Franchise Tax Board (the Board) at a subsequent meeting. The Board votes whether the proposals should be supported as potential legislative changes.

FTB staff also analyzes administrative proposals. After the analyses are complete, staff typically contact the presenters regarding the feasibility of implementing the proposals.

¶15 *Explanation of Taxpayers' Rights* *R&TC Section 21007*

The Franchise Tax Board (FTB) must inform taxpayers, in simple, nontechnical language, FTB procedures and taxpayers' remedies and rights during audit, appeal and collection proceedings. FTB must also include information regarding taxpayers' rights in the tax booklets.

Taxpayers receive information about their rights as taxpayers, how to protest/appeal and how to contact the Taxpayer Advocate at various stages of the audit and/or collection process. These stages include the initial notice of audit, the notice of proposed additional tax, and all collection notices.

This information is also available in the FTB brochure "[California Taxpayers' Bill of Rights](#)" (FTB 4058) and the "[California Taxpayers' Bill of Rights 2](#)" (FTB 4063). Taxpayers can request the brochure from:

Tax Forms Request Unit

P.O. Box 307

Rancho Cordova, CA 95741-0307

FTB's Website

or <http://www.ftb.ca.gov>

PART III

EVALUATING FTB EMPLOYEES

Revenue & Taxation Code

¶16 *Prohibition of Employee Evaluation*
 Based Upon Revenue Generated. 21008

¶17 *Evaluation of Employees Based Upon*
 Public Contact 21009

¶16 *Prohibition of Employee Evaluation*
 Based Upon Revenue Generated R&TC Section 21008

The Franchise Tax Board (FTB) is prohibited from evaluating employees based upon the revenue they produce through additional tax assessments or collections. FTB is also required annually to submit a letter to the Legislature certifying that revenue generated was not used to evaluate employees.

FTB management has issued a policy statement to audit and collection employees reinforcing the prohibition of evaluating employees based on revenue produced. In addition, we have excluded all references to amounts assessed or collected by individuals from departmental reports.

¶7 *Evaluation of Employees Based
Upon Public Contact* *R&TC Section 21009*

The Franchise Tax Board (FTB) must develop and implement a program to evaluate an employee's performance with respect to contact with taxpayers.

In response to this provision of the bill, FTB's mission and values statements emphasize customer service, quality, and communication as specific goals for employee behavior.

The mission and values statements have been communicated to all FTB employees. An employee evaluation form was designed and implemented to reflect the FTB mission and values statements. Candidates taking competitive exams administered by the department are evaluated on their knowledge of and commitment to these values.

PART IV

JOINT RETURNS

| | <i>Revenue & Taxation Code</i> |
|--------------------------------------------------------------|------------------------------------|
| ¶8 <i>Joint Return Filed After Separate Return</i> | <i>18525</i> |
| ¶9 <i>Disclosure of Collection Information</i> | <i>21023</i> |

¶8 *Joint Return Filed
After Separate Return* *R&TC Section 18525*

The Taxpayers' Rights: Conformity legislation repealed Revenue and Taxation Code section 18525 in 1997. That section limited taxpayers from filing a joint return after filing a separate return unless all amounts previously assessed or shown as tax by either spouse were paid in full at or before filing a joint return.

Now taxpayers that qualify to file a joint return are allowed to file such a return even though previous, separate liabilities of either taxpayer have not been paid.

¶9 *Disclosure of*
 Collection Information *R&TC Section 21023*

If any amount with respect to a joint return is due, and the individuals filing the return are no longer married or living in the same household, the Franchise Tax Board (FTB) is required to disclose, in writing, certain information upon request.

On or after January 1, 1998, if either individual submits a written request, FTB must disclose the following information:

1. whether the department has attempted to collect the delinquency from the other taxpayer;
2. the general nature of the collection activities;
3. the amount collected.

PART V

INFORMATION RETURNS

Revenue & Taxation Code

¶10 *Phone Number on*
 Information Returns. 18640 & 18648

¶11 *Reasonable Examination of Information Returns. 21024*

¶10 *Phone Number on*
 Information Returns R&TC Sections 18640 & 18648

The Franchise Tax Board (FTB) receives information from third parties, such as payers of wages, interest or dividends. FTB uses this information to verify income and wage information reported on income tax returns. These third parties are currently required by statute to include their names and addresses on California-only information returns. On information returns filed after January 1, 1999, telephone numbers will also be required. As a result taxpayers will have more direct access to the individual(s) who submitted their income and wage information to FTB.

¶11 *Reasonable Examination of
Information Returns*

R&TC Section 21024

Some of the assessments issued by the Franchise Tax Board (FTB) are based upon information that FTB receives from third parties. If the taxpayer files an appeal with the State Board of Equalization (SBE) on the basis that such an assessment is incorrect, the burden of proving the correctness of the third party information may shift to FTB. For the burden to shift, the taxpayer must bring forth a reasonable argument regarding the disputed income, appeal FTB's action, and fully cooperate with FTB.

PART VI

COLLECTION PROCEDURES

| | <i>Revenue & Taxation Code</i> |
|-------------------------------------------------|------------------------------------|
| ¶12 <i>Installment Agreements</i> | 19008 |
| ¶13 <i>Release of Seized Property</i> | 21016 |
| ¶14 <i>Exemptions From Levy</i> | 21017 |
| ¶15 <i>Release of Erroneous Liens</i> | 21019 |

These sections codified many existing FTB collection procedures. FTB forms, billing notices and manuals reflect these procedures where applicable.

¶12 *Installment Agreements*

R&TC Section 19008

The Franchise Tax Board (FTB) may allow a taxpayer to enter into an installment payment agreement to pay taxes due. If the taxpayer fails to comply fully with the terms of the agreement, FTB may terminate the agreement.

After January 1, 1998, when FTB terminates an agreement without the consent of the taxpayer, a notice of and reason for the termination must be mailed to that taxpayer 30 days before the date of termination. This requirement does not apply if FTB determines collection is in jeopardy.

If the taxpayer requests a review of the termination, the Taxpayer Advocate will conduct an independent departmental review. This review does not stop collection action.

¶13 *Release of Seized Property*

R&TC Section 21016

The Franchise Tax Board (FTB) must release a taxpayer's seized property, except in the case of a jeopardy assessment, if:

- (1) the expense to FTB of selling the property would be more than the tax debt;
- (2) the Taxpayer Advocate finds the levy threatens the health and welfare of the taxpayer or family;
- (3) the levy on the property is in violation of FTB's administrative procedures or is in violation of the terms of an installment agreement;
- (4) the release would facilitate collection or would be in the best interest of the state;
- (5) the proceeds of the sale will not reduce the tax debt by a reasonable amount. FTB must notify the taxpayer of certain exemptions from levy set forth in the California Code of Civil Procedure prior to the sale of assets.

¶14 *Exemptions From Levy*

R&TC Section 21017

The Franchise Tax Board (FTB) must adjust taxpayers' exemptions from levy to reflect changes in the California Consumer Price Index (CCPI) whenever the change is more than five percent higher than the previous adjustment. FTB monitors the CCPI and adjusts exemption amounts when appropriate to reflect any changes in the CCPI.

¶15 *Release of Erroneous Liens*

R&TC Section 21019

If the Franchise Tax Board (FTB) files or records a lien in violation of its administrative procedures or in violation of the terms of an installment agreement, FTB is required to follow the procedure for releasing the lien as though the lien was filed or recorded in error.

FTB is required to mail a notice to a taxpayer at least 30 days prior to the recording or filing of a tax lien stating the authority for filing the lien and what avenues the taxpayer has available to prevent the filing of the lien. The 30-day notice provision is not applicable in the case of a jeopardy assessment. In general, FTB must mail a release of an erroneous lien no later than seven working days after determining that the lien was filed in error. A copy of the release must be sent to the taxpayer and, upon the taxpayer's request, a copy of the release will be mailed to the major credit reporting companies in the county where the lien was filed.

¶16 *Extension of Interest Free Period* R&TC Sections 19049, 19111, 19132, 19280, 19290

¶17 *Abatement of Interest* R&TC Section 19104

Revenue and Taxation Code section 19104 allows the Franchise Tax Board (FTB) to abate interest for taxable or income years beginning January 1, 1998, that can be attributed to unreasonable errors or delays caused by an FTB officer or employee performing a ministerial or managerial act. Taxpayers may appeal FTB's determinations not to abate interest to the State Board of Equalization within 180 days after the FTB mails its notice.

PART VIII

REIMBURSEMENTS AND AWARDS

| | Revenue & Taxation Code |
|------------------------------------------------------------------------------------------------|-------------------------|
| ¶18 Recovery of Litigation Costs | 19717 |
| ¶19 Reimbursement of Fees/Expenses Related to State Board of Equalization Appeals | 21013 |
| ¶20 Erroneous Levy | 21018 |
| ¶21 Court Action Against the State | 21021 |
| ¶22 Intentional Enticement | 21022 |

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| ¶18 Recovery of Litigation Costs | R&TC Section 19717 |
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Taxpayers may be awarded the reimbursement of reasonable litigation costs/expenses if the taxpayer prevails in the proceeding, and the Franchise Tax Board (FTB) cannot substantially justify its position. A judgment for reasonable litigation costs will not be awarded unless the court determines that the prevailing party exhausted all available administrative remedies. (Whether the taxpayer agreed to an extension of the time for the assessment of any tax cannot be taken into consideration when determining if the taxpayer exhausted all available administrative remedies.)

The position of FTB will be presumed not to be substantially justified if FTB staff did not follow established published guidance, (i.e., legal rulings, regulations, announcements).

Attorney fees in a civil proceeding may be awarded up to \$110 per hour. FTB will recompute this amount starting in 1999, to reflect cost of living adjustments.

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| ¶19 Reimbursement of Fees/Expenses Related to State Board of Equalization Appeals | R&TC Section 21013 |
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The State Board of Equalization (SBE) may determine that a taxpayer be reimbursed for reasonable fees and expenses incurred in the appeal of a Franchise Tax Board (FTB) action. To make such a determination, the SBE shall consider whether FTB has established that its position in the appeal was substantially justified. The position of FTB will be presumed not to be substantially justified if FTB staff did not follow established published guidance, (i.e., legal rulings, regulations, announcements).

¶20 *Erroneous Levy*

R&TC Section 21018

The Franchise Tax Board (FTB) is authorized to reimburse bank charges to a taxpayer if FTB filed an erroneous levy. Bank charges include the financial institution's charge for complying with the levy and reasonable charges for overdrafts. The taxpayer may file a claim for reimbursement by providing a written statement to the FTB. The written statement must be filed within 90 days of the date of the erroneous levy. In order to be granted reimbursement, the taxpayer must have responded to all contacts from FTB and must have provided all requested information.

¶21 *Court Action Against the State*

R&TC Section 21021

A taxpayer may bring a court action against the State of California for damages if aggrieved by a Franchise Tax Board employee's reckless disregard of published procedures. The court may award actual and direct damages sustained by the taxpayer, as well as reasonable litigation costs except for losses caused by the taxpayer's own negligence or omission. However, in the event that the taxpayer's action is determined to be frivolous, the court may impose a \$10,000 penalty.

¶22 *Intentional Enticement*

R&TC Section 21022

A taxpayer may sue the state for damages and costs up to \$500,000 if the Franchise Tax Board (FTB) staff intentionally entice the taxpayer's representative to provide information on the taxpayer in exchange for settling or compromising the representative's tax.

PART IX

NOTICES TO TAXPAYERS

| | <i>Revenue & Taxation Code</i> |
|----------------------------------------------------------------------|------------------------------------|
| ¶23 <i>Unassociated Payments.</i> | <i>20125</i> |
| ¶24 <i>Notification to Corporations Prior to Suspension.</i> | <i>21020</i> |
| ¶25 <i>Annual Notice to Taxpayers</i> | <i>21026</i> |

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| ¶23 <i>Unassociated Payments</i> | <i>R&TC Section 20125</i> |
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The Franchise Tax Board (FTB) is required to make a reasonable attempt to notify the taxpayer if FTB is unable to locate that taxpayer's account within 60 days of receipt of payments received on or after January 1, 1998.

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| ¶24 <i>Notification to Corporations Prior to Suspension</i> | <i>R&TC Section 21020</i> |
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At least 60 days prior to suspending a corporation, Franchise Tax Board (FTB) must mail a notice to that corporation stating the specific code section under which the suspension will occur and the date on which the suspension will take place.

Corporations that are in jeopardy of suspension are mailed a form (FTB 4974) at least 60 days prior to the suspension. This form cites the appropriate code section and the scheduled date of suspension.

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| ¶25 <i>Annual Notice to Taxpayers</i> | <i>R&TC Section 21026</i> |
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For income or taxable years beginning on or after January 1, 1998, the Franchise Tax Board (FTB) is required to mail a written notice to all taxpayers that have a delinquent balance due. The notice must be sent annually and inform the taxpayer of the amount of the balance due.

PART X

AMENDED RETURN CLAIMS FOR REFUND, PROTESTS AND APPEALS

| | Revenue & Taxation Code |
|-----|--------------------------------------------------------------------------------------------------------------------|
| ¶26 | <i>Plan to Reduce Time Required for Amended Return Claims for Refund, Protests and Appeals</i> 21010 |
| ¶27 | <i>Protest Hearings</i> 21011 |

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|-----|---------------------------------------------------------------------------------------------------------------------------|
| ¶26 | <i>Plan to Reduce Time Required for Amended Return Claims for Refund, Protests and Appeals</i> R&TC Section 21010 |
|-----|---------------------------------------------------------------------------------------------------------------------------|

The Franchise Tax Board (FTB) was required to develop a plan by July 1, 1989 to reduce the time required to resolve protests, appeals, and amended return claims for refund.

FTB staff met with representatives from the California CPA Society, California Society of Enrolled Agents, State Bar of California, and other interested parties in February, 1989 to present the plan mandated by the legislation.

Time frames for various workloads are detailed in the plan depending upon the category of the case and whether or not field audit involvement is required. FTB continues to emphasize resolution of issues at the audit level and tries to improve the process in order to achieve the goals specified in the plan.

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| ¶27 | <i>Protest Hearings</i> R&TC Section 21011 |
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The tax code mandates that:

- 1) Hearings shall be held at a reasonable time in a district office convenient to the taxpayer when possible.
- 2) Franchise Tax Board (FTB) may audio record the hearing but only if prior notice is given to the taxpayer.
- 3) Taxpayers shall be informed prior to hearings that they have a right to be represented.

PART XI

WRITTEN ADVICE

¶28 *Revenue & Taxation Code Section 21012*

Reliance on erroneous written advice from the Franchise Tax Board (FTB), in certain circumstances, may result in cancellation of penalties and interest. In some cases, tax may be cancelled if the advice is requested and received prior to taking the contemplated action. Requests for written advice must include the name of the taxpayer and an identification number (social security number, corporation number, or federal employer identification number). A complete statement of all the facts regarding the transaction or activity is also required. Taxpayers or their tax representatives requesting written advice on behalf of a client must include a legal analysis and cite the authority for their position.

FTB will not issue written advice under certain conditions. These include:

- sections of the law where state and federal law are the same;
- questions of fact (residency, unity);
- issues that are currently in audit, protest, appeal, settlement or in

litigation.

Refer to Franchise Tax Board Chief Counsel Rulings Guidelines (FTB Notice 89-277) for more detail on how the Franchise Tax Board provides written advice to taxpayers. FTB Notice 89-277 may be obtained by writing to the address listed below.

If you want to request written advice, mail your correspondence to:

Request for Written Advice
Franchise Tax Board
P.O. Box 1720
Rancho Cordova, CA 95741-1720

The request should specify: "Taxpayers' Bill of Rights — Request for Written Advice."

PART XII

MISCELLANEOUS PROVISIONS

| | <i>Revenue & Taxation Code</i> |
|------------------------------------------------------------|------------------------------------|
| ¶29 <i>Application of Regulations</i> | 19503 |
| ¶30 <i>Prohibition of Non-tax Investigations</i> | 21014 |
| ¶31 <i>Waiver of Specific Penalties</i> | 21015 |
| ¶32 <i>Private Delivery Services</i> | 21027 |

¶29 *Application of Regulations* *R&TC Section 19503*

This section generally provides that for California laws enacted on or after January 1, 1998, a Franchise Tax Board (FTB) regulation can apply retroactively only if FTB issues the regulation within 24 months of the date of enactment. For California laws enacting federal conformity on or after January 1, 1998, an FTB regulation can apply retroactively only if FTB issues the regulation within 24 months of the date of publication of a federal temporary or final regulation under a federal statute to which California conformed.

FTB's regulation process is governed by the California Administrative Procedures Act (APA). As such, FTB must provide notice to the public of its intent to issue a particular regulation and provide a public hearing. Under FTB's practice, preliminary to the public notification under the APA, staff conducts symposiums with the affected industries to resolve controversial issues and brings the matter of proposed regulations to the Board, itself. Under the APA, FTB regulations are reviewed and approved by the Office of Administrative Law. When the regulation is approved, it is filed with the Secretary of State and is effective 30 days thereafter. Regulations, as well as rulings, are applied retroactively unless FTB prescribes otherwise.

¶30 *Prohibition of Non-tax Investigations* *R&TC Section 21014*

The Franchise Tax Board (FTB) is prohibited from knowingly authorizing or conducting any investigation or surveillance for non-tax administration purposes except with respect to carrying out its statutory duties. FTB's policy is to conduct investigations as authorized by law.

Revenue and Taxation Code section 21015 provides the Franchise Tax Board (FTB) with discretionary authority to either refrain from imposing or to waive penalties authorized under section 19011 (Electronic Funds Transfer [EFT] penalty) or subdivision (a) of section 19141.5 (Form 5472/Record Maintenance penalty), but only if the taxpayer's failure to comply did not jeopardize the best interests of the state and is not due to any willful neglect or intent not to comply.

This section, effective January 1, 1996, applies only to EFT and Form 5472/Record Maintenance penalties which were or will be imposed after January 1, 1995.

The Franchise Tax Board (FTB) is required to process mail received from private delivery services as though it were mailed with the United States postal service. The date an item is recorded with the private delivery service would be treated as the postmark.

PART XIII

COMPARISON OF CALIFORNIA TAXPAYERS' BILL OF RIGHTS TO THE FEDERAL LAW

| <i>California</i> | | <i>Federal</i> | | |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Code Section</i> | <i>Provisions</i> | <i>Act Section</i> | <i>IRC Section</i> | <i>Provisions</i> |
| 18525 | Allows taxpayers to file a joint return even though previous, separate liabilities of either taxpayer have not been paid. | 402 | 6013(b) | Joint returns may be filed after separate returns without full payment of tax. |
| 18640 18648 | Requires third parties to include their name, address, and telephone number on information returns. | 1201 | 6041, 6042, 6044, 6045, 6049, 6050 | Phone numbers of person providing payee statements required to be shown on such statement. |
| 19008(a) | Requires FTB to send a notice to taxpayers when terminating an installment payment agreement telling them why the agreement is terminated. | 201 | 6159(b) | Notification of reasons for termination of installment agreements. |
| 19008(c) | Requires the Advocate to establish procedures for a review of terminated installment agreements. | 202 | 6159(c) | Secretary of the Treasury is required to establish procedures for an independent departmental review of terminated agreements. |
| 19049, 19111, 19132, 19280, 19290 | Allows taxpayers five additional calendar days to pay an amount due without accruing additional interest. | 303 | 6601(e), 6651(a) | Extension of interest-free period for payment of tax after notice and demand. |
| 19104 | Allows FTB to abate interest due to unreasonable errors or delays. | 301 302 | 6404(g) | Expansion of authority to abate interest and establishing review process for failure to abate interest. |
| 19503 | Allows FTB 24 months after the enactment of a law to issue a regulation that would be retroactive. | 1101 | 7805(b) | Relief from retroactive application of Treasury Department regulations. |
| 19717 21013 | Authorizes FTB to reimburse the taxpayer for reasonable litigation costs/expenses and fees/expenses of an appeal hearing. | 701, 702, 703, 704 | 7430(c) | Awards litigation costs permitted in declaratory judgment proceedings. U.S. must establish that its position in a proceeding was substantially justified. Allows for an increase limit on attorney fees. |
| 20125 | Requires FTB to notify the taxpayer if FTB is unable to locate that taxpayer's account within 60 days of receipt of the payment. | 1202 | | Required notice to taxpayers of certain payments. |

*California**Federal*

| Code Section | Provisions | Act Section | IRC Section | Provisions |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21004 | Establishes Taxpayer Advocate and allows the Advocate to stop collection actions under certain circumstances. Advocate (California) actions can be modified or rescinded only by the Franchise Tax Board (FTB) Executive Officer. | 6230 | 7811 | Allows the Ombudsman or designee (Problem Resolution Officer) to stop collection actions under certain circumstances. Ombudsman (federal) issues taxpayer assistance orders which can be modified or rescinded by specified IRS directors. |
| 21005 | Requires FTB to develop and implement public education program explaining most common taxpayer errors. | 7802 | | Establishes position of Assistant Commissioner for taxpayer education and taxpayer services. |
| 21006(a) | Requires FTB to prepare annual report by 10/1 identifying areas of recurrent taxpayer non-compliance. | | | No comparable federal provision. |
| 21006(b) | Requires FTB to conduct annual hearing where the public can present proposals on law changes. | | | No comparable federal provision. |
| 21007 | FTB must disclose to taxpayers procedures, remedies and rights during audit, appeal and collection proceedings. FTB must also disclose taxpayers' rights with most notices and in tax booklets. | 6227 | | Similar to California. |
| 21008 | Prohibits FTB from evaluating employees on the revenue they generate through additional tax assessed or taxes collected. | 6231 | | Federal provisions apply only to collection activities. |
| 21009 | FTB must evaluate employees' performance with respect to contact with taxpayers. | | | No comparable federal provision. |
| 21010 | FTB is required to develop a plan by 7/1/89 to reduce the time required to resolve protests and appeals. | | | No comparable federal provision. |
| 21011 | FTB may record protest hearings. Taxpayers must be notified in advance and they are entitled to receive a copy of the recording. | 6228 | 7521 | California provision only provides for state to make recording. Federal provision allows either side to do so. |
| 21012 | Taxpayers' reliance on erroneous FTB written advice may result in abatement of penalties and interest. Tax may be waived in the event of an erroneous Chief Counsel ruling. | 6229 | 6404 | Taxpayers' reliance on IRS erroneous written advice may result in abatement of penalties only. |

California

Federal

| Code Section | Provisions | Act Section | IRC Section | Provisions |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------|------------------------------------------------------------------------------------------------|
| 21014 | Prohibits FTB from conducting investigations for non-tax purposes. | | | No comparable federal provision. |
| 21015 | Effective 1/1/96 this section provides FTB with discretionary authority to waive penalties authorized under section 19011 EFT penalty and section 19141.5 Form 5472 Record Maintenance penalty. This section formerly allowed FTB to settle tax disputes under \$5000 and was repealed by Ch. 44, laws 1992. | | | No comparable federal provision. |
| 21016 | Requires FTB to release taxpayer's seized property under certain conditions. | 6236(f) | 6343 | Similar to California. |
| 21017 | Requires FTB to adjust all exemptions from levy to changes in the California Consumer Price Index over 5%. | 6236(c) | 6334 | Federal provision increased the exemptions from levy for certain types of property and income. |
| 21018 | Authorizes FTB to reimburse bank charges to taxpayer because of an erroneous levy. | | | Commissioner's Policy Statement P-5-30 provides for similar relief. |
| 21019 | Generally requires FTB to notify taxpayers 30 days prior to filing a lien. FTB is required, upon taxpayer's request, to notify major credit reporting companies of erroneous lien. | 6238(c) | 6326 | Federal provision allows taxpayers to appeal the lien after the lien has been filed. |
| 21020 | Requires FTB to notify corporations 60 days prior to suspending rights, powers, and privileges. | | | No comparable federal provision. |
| 21021 | Allows taxpayers to sue FTB for reckless disregard of published procedures. | 6240(c) | 7432, 7433 | Only applies to collection related activity. |
| 21022 | Allows taxpayers to bring suit against FTB for enticing taxpayers' representatives to give them taxpayer information by settling or compromising the representative's tax. | 1203 | 7435 | Unauthorized enticement of information disclosure. |
| 21023 | Requires FTB to provide certain collection information to taxpayers that file a joint return but are no longer married or living together. | 403 | 6103(e) | Disclosure of collection activities with respect to joint return. |
| 21024 | Shifts the burden to FTB for proving that items of income reported by third parties on information returns is correct. | 602 | 6201(d) | Requirement to conduct reasonable investigations of information returns. |

*California**Federal*

| <i>Code Section</i> | <i>Provisions</i> | <i>Act Section</i> | <i>IRC Section</i> | <i>Provisions</i> |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------|----------------------------------------------------------------------------|
| 21026 | Requires FTB to annually send a notice to taxpayers with delinquent liabilities. | 1204 | 7524 | Annual reminders to taxpayers with outstanding delinquent accounts. |
| 21027 | Allows FTB to process mail received from IRS-designated private delivery services as though it were mailed with the postal service. | 1210 | 7502(f) | Use of private delivery services for timely-mailing-as-timely-filing rule. |

Numerous provisions in the federal law were not included in the California Taxpayers' Bill of Rights. In most cases these provisions do not apply to California law (e.g., jurisdictional authority of Tax Court) or were already included in prior California legislation or current practice (e.g., installment payment of tax liability; jeopardy assessment procedures; provision for Assistant Commissioner to Taxpayer Services).



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